

REMARKS

Applicants have carefully reviewed this Applications in light of the Office Action mailed May 2, 2006. Claims 1-30 are pending in this Application and Claims 1-30 stand rejected under 35 U.S.C. § 103(a). No claim amendments are made herein. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 103

Claims 1-26

Claims 1-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0023885 by Mark R. Potter et al. (“*Potter*”) in view of U.S. Patent No. 6,735,704 issued to David Butka et al. (“*Butka*”) and in further view of U.S. Patent No. 6,583,521 issued to Martin Lagod (“*Lagod*”).

Potter discloses a plurality of computers with each computer capable of being in one of a plurality of power states. (Paragraph [0011]). The system also includes a load balancer and power management logic that couple to the network and change the power state of at least one of the plurality of computers based on transactions on the network. (Paragraph [0011]).

Butka discloses a power management module for multiple redundant supplies in a redundant power system. (Col. 1, lines 46-48). The system ensures that a predetermined number of redundant power supplies are coupled to a power bus in the system. (Col. 1, lines 57-59).

Lagod discloses an arrangement in which power generation equipment is located at the site of a consumer, and provides electrical power that supplements and/or replaces the power delivered by a central power distribution network. (Col. 3, lines 50-54).

Claim 1 recites a computer system comprising “[a] resource management engine operable to scale [a] number of the plurality of processing resources in relation to a plurality of demand requirements including at least ... historical demand data” and “the resource management engine operable to scale [a] number of power supplies providing power to the

processing resources in relation to the plurality of demand requirements including at least the historical demand data.”

Claim 15 recites a method for the optimizing of power consumption by a computer system having a plurality of processing resources and a plurality of power supplies associated therewith, the method comprising “receiving a demand requirement based on historical demand data for the computer system,” “determining if the demand requirement requires a processing resource change,” “adjusting the plurality of processing resources to satisfy the demand requirement,” and “adjusting the plurality of power resources to satisfy the demand requirement.”

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Applicants respectfully submit that the *Potter*, *Butka* and *Lagod* references cited by the Office Action cannot render obvious Claims 1 and 15, because: (a) it is improper to combine the references, and (b) the references, taken together or independently, do not show all elements of the present Claims.

With respect to Claims 1 and 15, the Office Action concedes that neither *Potter* nor *Butka* “specifically teach the management engine comprising at least one dynamic table listing historical demand data and does not specifically teach the scaling of processing resources and power supplies based on historical demand data.” (Office Action, Page 3). The Office Action cites to *Lagod* as “teach[ing] the use of historical tables, statistical data and future demand requirements to scale power supplies.” (Office Action, Page 3). To

support this assertion, the Office Action cites to Col. 7, lines 23-30 of *Lagod* which discusses the use of statistical data to make a pre-emptory switch between receiving power from a power grid or from local generators. *Lagod* then goes on to describe the use of historical usage data to increase or decrease the amount of available power, such as by starting an additional generator. (Col. 7, lines 31-42). In the example provided, the additional power may be provided to a customer (a restaurant) at the beginning of each day when the load increases due to grills and ovens being turned on.

Applicants note that the Office Action appears to apply the teachings of *Lagod* with respect to the management of power generators to the management of both 1) power supplies and 2) processing resources. Applicants submit that the processing resources recited in Claims 1 and 15 are not analogous to the power generators and/or power grid disclosed by *Lagod*. Applicants submit that in order for the teachings of *Lagod* to actually read on the present claims, in the example presented *Lagod* would need to teach the scaling of the number of grills and ovens used by the customer based on the historical data. Obviously, however, *Lagod* makes no suggestion or disclosure.

Applicants further note that the power supply elements claimed are not analogous to the power generators of *Lagod*. The determination of what constitutes analogous art is greatly controlled by the similarities and differences in structure and function of the inventions to carry far greater weight." *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973). MPEP 2141.01(a). Power supplies for computer systems and other information handling system, as contemplated in the present disclosure, do not generate electricity independently but instead are connected to a power source such as an electrical outlet and convert the power to a selected form. As such, Applicants reiterate that the office action has broadened the teaching of *Lagod* beyond its reasonable scope. Applicants further note that the Examiner, when supporting the arguably reasonable assertion that *Potter* and *Butka* are analogous, stated the field of endeavor as "the efficient allocation of power in a network-enabled computer system." When required to squeeze *Lagod* into the category of analogous, however, the Examiner conveniently expands the field of endeavor to "the efficient scaling of energy based on system need." The Examiner's attempt to define a field of endeavor sufficiently vast to encompass the enormous differences in structure and function

between *Potter* and *Lagod* is entirely inconsistent with the concept of analogous art as defined guided by the MPEP.

Moreover, in the instance that *Potter*, *Butka* and *Lagod* are combined, the resulting system would result in a computer system with components powered up or down based on current demand and a power source that switches between an independent power generation source and a power grid that may be adjusted based on historical usage trends. The combination makes no disclosure, teaching or suggestion of applying the historical data to the management of the computer system of *Potter* and/or *Butka*. Such a reading is accomplished only through the use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious, which is improper. *In re Fritch*, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992).

Accordingly, the present combination is not permissible and does not teach each and every limitation of Independent Claims 1 and 15. Given that Claims 2-14 depend from Claim 1 and Claims 16-26 depend from Claim 15, Applicants submit that Claims 2-14 and 16-26 are allowable. Thus, Applicants respectfully request reconsideration, withdrawal of the rejection under 35 U.S.C. § 103 and full allowance of Claims 1-26.

Claims 27-30

Claims 27-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,784,628 issued to Kenneth S. Reneris ("*Reneris*") in view of *Lagod* and in further view of *Butka*.

Reneris discloses a portable, software-controlled system for managing power consumption in a computer system. (Col. 2, lines 62-64).

Claim 27 recites a method for managing power consumption in a computer system that includes, among other steps, "storing historical data in a plurality of dynamic tables, the historical data corresponding to previous demands on the computer system" and "adjusting a plurality of processing resources in advance to meet the future demand requirements." Applicants respectfully submit that the *Reneris* and *Lagod* references cited by the Office Action cannot render obvious Claim 27, because: (a) it is improper to combine the references,

and (b) the references, taken together or independently, do not show all elements of the present Claims.

The Office Action concedes that *Renneris* does not teach the use of historical data in dynamic tables. (Office Action, Page 7). The Office Action cites to *Lagod* as teaching the use of historical data to predict “future demand requirements using the historical data in the dynamic tables” and adjusting “a plurality of processing resources in advance to meet the future demand requirements.” (Office Action, Page 7). To support this assertion, the Office Action again cites to Col. 7, lines 23-30 of *Lagod* which discusses the use of statistical data to make a pre-emptory switch between receiving power from a power grid or from local generators. As noted above, *Lagod* then goes on to describe the use of historical usage data to increase or decrease the amount of available power, such as by starting an additional generator. (Col. 7, lines 31-42). In the example provided, the additional power may be provided to a customer (a restaurant) at the beginning of each day when the load increases due to grills and ovens being turned on.

Applicants again note that the Office Action appears to apply the teachings of *Lagod* with respect to the management of power generators to the management of both 1) power supplies and 2) processing resources. Applicants submit that the processing resources recited in Claim 27 are not analogous to the power generators and/or power grid disclosed by *Lagod*. Applicants submit that in order for teachings *Lagod* to actually read on the present claims, in the example presented *Lagod* would need to teach the scaling of the number of grills and ovens used by the customer based on the historical data. Obviously, however, *Lagod* makes no suggestion or disclosure. Applicants further note that the power supply elements claimed are not analogous to the power generators of *Lagod*. Power supplies for computer systems and other information handling system, as contemplated in the present disclosure, do not generate electricity independently but instead are connected to a power source such as an electrical outlet and convert the power to a selected form. As such, Applicants reiterate that the office action has broadened the teaching of *Lagod* beyond its reasonable scope.

Moreover, in the instance that *Renneris* and *Lagod* are combined, the resulting system would result in a computer system with components powered up or down based on current demand and a power source that switches between an independent power generation source

and a power grid that may be adjusted based on historical usage trends. The combination makes no disclosure, teaching or suggestion of applying the historical data to the management of the computer system of *Lagod*. Such a reading is accomplished only through the use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious, which is improper. *In re Fritch*, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992).

Accordingly, the present combination is not permissible and does not teach each and every limitation of Independent Claim 27. Given that Claims 28-30 depend from Claim 27 that Claims 28-30. Thus, Applicants respectfully request reconsideration, withdrawal of the rejection under 35 U.S.C. § 103 and full allowance of Claims 27-30.

CONCLUSION

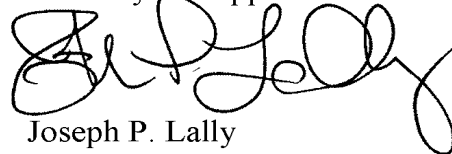
Applicants appreciate Examiner's review of the Application. Applicants respectfully request reconsideration and full allowance of Claims 1-30.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 02-0383 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2680.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorney for Applicants



Joseph P. Lally
Reg. No. 38,947

Date: August 2, 2006

SEND CORRESPONDENCE TO:

Customer No. **23640**

512.322.2680
512.322.8359 (FAX)